

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE  
 725 FRONT STREET, SUITE 300  
 SANTA CRUZ, CA 95060  
 (831) 427-4863



# W27g

Filed: 9/13/01  
 49th day: 11/01/01  
 180th day: 3/12/02  
 Staff: MW  
 Staff report: 10/31/01  
 Hearing date: 11/14/01

## COASTAL DEVELOPMENT PERMIT: REGULAR CALENDAR

**Application Number**.....3-01-085 (Gary Martin)

**Applicant**.....Gary A. Martin

**Project location**.....SE Corner of Camino Real and 13<sup>th</sup> Avenue, Carmel, Monterey County (See Exhibit A)

**Project description**.....Demolition of an existing 2,635 square foot single family residence, construction of a new 2,700 square foot single family residence, and rehabilitation of existing garage. See Exhibit B.

**Approvals Received**.....City of Carmel-by-the-Sea: DS 01-04 / RE 01-08 / VA 01-03.

**File documents**.....Coastal Development Permit files 3-01-032 (Martin); City of Carmel-By-The-Sea uncertified Land Use Plan and Zoning Ordinance; City of Carmel Community Building and Planning Department Staff Report (03/14/01); Jones & Stokes Associates Evaluation Report (06/1999).

**Staff recommendation** ....Approve with Conditions

### Staff Note:

The public hearing on this project was opened at the July 12, 2001 Commission Meeting in Santa Rosa. The Commission denied the application based on impacts to community character, potential historical associations, and because it would prejudice the City's ability to prepare and complete a certifiable LCP. At its September 12, 2001 meeting, the Commission granted a reconsideration of the application based on new information, which was unavailable at the July 2001 hearing. At the request of the applicant, the City Building Inspector evaluated the soundness of the structure and subsequently issued a red-tag order because it was in poor condition. The red-tag order requires that a permit be obtained to demolish or rehabilitate the structure within 60 days. Based on this new information, the Commission granted a reconsideration of the application.



**California Coastal Commission**  
**November 14, 2001 Meeting in Los Angeles**

Staff: Mike Watson Approved by:  
 C:\DOCUME~1\mfrum\LOCALS~1\Temp\3-01-085 (Gary Martin).doc

## I. Summary

The proposed project consists of the demolition of an existing 2,635 square foot single family residence, and construction of a 2,700 square foot single family residence in the City of Carmel-by-the-Sea. Although, the applicant originally proposed to adjust lot-lines to create two legal parcels of 6,900 square feet and 4,000 square feet respectively, further review of the relevant property documents shows that there is only one legal parcel (10,900 square feet) at the site. Staff has found in its evaluation of the applicant's submitted title report, that a prior owner had the lots merged by map and by deed into one parcel in 1972. A request to withdraw that portion of the application involving a lot-line adjustment was received on October 26, 2001 (See Exhibit C). If the applicant wishes to pursue a land division, he will need to pursue this with the City and apply for a coastal development permit from the Commission.

The applicant also proposes to demolish an existing single family residence (approximately 2,635 square feet) and construct a two-story 2,700 square foot single family residence on the proposed 6,900 square foot north parcel split that fronts 13<sup>th</sup> Avenue. The proposed new structure retains and rehabilitates the existing garage and same nonconforming garage setback of 1' from the side yard property boundary. The applicant has also submitted plans for a residence that could be built on the proposed 4,000 square foot south parcel, though the applicant has not yet obtained City approval for this second structure.

The site is bounded on two sides by public streets (13<sup>th</sup> Avenue and Camino Real) and is heavily forested with coast live oak. The existing structure is setback from Camino Real and spans across the interior of the site, nearly surrounded by trees. As a result, even though the south wing of the existing structure is two-story in height, the structure does not appear obtrusive and is subordinate to the surroundings. The proposed new design re-sites the house in an east-west orientation adjacent to 13<sup>th</sup> Street and though there are many trees in this location, the bulk of the proposed new structure will make it much more noticeable from 13<sup>th</sup> Avenue. The City's Forest and Beach Commission approved an application to remove and prune limbs on several coast live oaks, including an 8" and 17" coast live oak and a 12" diameter spar from a 21" coast live oak. In addition, 7 limbs and canopy branches of various diameters will need to be removed during the course of construction. As mitigation for the tree removal and pruning, the City Forest and Beach Commission has required 6 upper canopy trees, such as Monterey pines, Monterey Cypress or coast redwoods be planted. The applicant has also verbally agreed to plant additional trees.

Carmel is a very popular visitor destination as much for the style, scale, and rich history of its residential, commercial, and civic architecture, as for its renowned shopping area, forest canopy and white sand beach. Carmel is made particularly special by the character of the residential development within its City limits. Homes are nestled into the native Monterey pine/Coast live oak forest on a grid of streets that is executed in a way to yield to trees more than to engineering expediency. This is the context for Carmel's community life and its built character.

The proposal raises questions as to whether this project would protect Carmel's community character consistent with the Coastal Act Section 30253(5), which requires that special communities be protected. In particular, the project may result in the loss of a significant historical resource. A historical evaluation



of the structure prepared by Jones & Stokes Associates, determined that the existing house was found to be eligible for listing in the California Register of Historical Resources (CRHR), for its association with a person who is significant at the local, state and national level. The house was also found to be eligible for listing in the CRHR as a contributing element of a potential historical district because it conveys the design principles of the Arts and Crafts movement, the landscape principles of this movement, and reflects the design traditions typical of early residential development in Carmel. However, the City of Carmel did not adopt the historic evaluation findings and determined that the “preponderance of evidence establishes that the site or structure are not historically or culturally significant.”

The City interviewed Gus Arriola, who is the subject of the potential historical association and determined that the evidence to support historical status was inconclusive. Furthermore, quite a bit of evidence was submitted to show that the existing structure is in an advanced state of disrepair and dilapidation. The City of Carmel performed a building inspection recently and ordered the structure to be red-tagged, prohibiting any person(s) from occupying the premises. The City order also requires the applicant to obtain a permit within 60 days to remove or rehabilitate the structure. Though a licensed preservation architect was not consulted, one cost estimate to repair/rehabilitate the existing damaged structure obtained from a general contractor suggest the cost may equal or exceed \$200 per square foot or roughly \$525,000. Moreover, based on the long list of repairs necessary to bring the structure back to habitable form, the structure will essentially have to be demolished in order to be repaired. As such, concerns regarding adverse impacts to community character and the resultant loss of potential historic resources must be weighed against the fact that the structure is unsafe and that it will require a near complete demolition in order to rebuild it and bring the structure back to a habitable form.

Because the proposed new structure involves a variance greater than 10% of the City’s current zoning ordinances, it too is the subject of this Coastal Development Permit. The architectural style of the proposed new house is similar to an English Cotswald cottage. The design is different from the architectural style of the existing structure, though it is not inconsistent with the eclectic flavor of other existing homes in the village. The 2,700 square foot single family residence is similar in square footage to the existing house, but deviates from its predecessor in bulk. As mentioned above, the applicant intends to re-orient the replacement structure in a manner that requires the removal of trees and which may ultimately alter the streetscapes of 13<sup>th</sup> Avenue and Camino Real. It is precisely these aspects of the proposed project that raise a concern for the Commission, which is responsible for preserving the general character of the City until its LCP is certified. As such, the Commission cannot approve the project unless it is modified to maintain the same general size, scale, volume, and footprint as the existing structure, and that is consistent with the land use requirements and zoning ordinances of the City.

Therefore, as conditioned, the proposed project is consistent with the Chapter 3 policies of the Coastal Act and will not prejudice the City’s ability to prepare and complete an LCP that is consistent with the Coastal Act.

## II. Staff Report Contents



Staff Note: .....	1
I. Summary.....	2
II. Staff Report Contents .....	3
III. Staff Recommendation on Coastal Development Permit.....	5
IV. Conditions of Approval .....	5
A. Standard Conditions .....	5
B. Special Conditions.....	6
V. Recommended Findings and Declarations .....	6
A. Project Description and Background .....	6
B. Standard of Review .....	8
C. Issues Discussion.....	9
1. Community Character .....	9
Carmel's Community Character.....	9
Cumulative Community Character Impacts .....	11
Prejudice to LCP Planning Efforts .....	11
Specific Project Impacts and Coastal Act Consistency Analysis.....	13
Demolition of the Existing House .....	14
Lot-Line Adjustment .....	17
Proposed New Structure.....	18
D. California Environmental Quality Act (CEQA).....	20
VI. Exhibits	
Exhibit A: Project Location Map	
Exhibit B: Assessor's Parcel Map	
Exhibit C: Request to Withdraw Lot-Line Adjustment	
Exhibit D: Building Envelope	
Exhibit E: Proposed Site Elevations	
Exhibit F: Photos of Existing Structure	
Exhibit G: Original Survey Report	
Exhibit H: Jones & Stokes Report	
Exhibit I: Carmel Historical Findings	
Exhibit J: Markey Home Inspection Report	
Exhibit K: Letter from Mr. Uyeda	
Exhibit L: Red-Tag Order	
Exhibit M: Additional Engineering Letters	
Exhibit N: Title Report	
Exhibit O: Elevations	
Exhibit P: Proposed New Structure	
Exhibit Q: Forest & Beach Commission Report	
Exhibit R: Parcel Map	
Exhibit S: Neighbors Letters	



### III. Staff Recommendation on Coastal Development Permit

**Motion:** *I move that the Commission approve Coastal Development Permit No. 3-01-085 pursuant to the staff recommendation.*

**Staff Recommendation of Approval.** *Staff recommends a YES vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.*

**Resolution to Approve the Permit.** *The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment..*

### IV. Conditions of Approval

#### A. Standard Conditions

**1. Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

**2. Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.



- 3. Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
- 5. Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

## B. Special Conditions.

- 1. Revised Project Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit two sets of City-approved revised final project plans for the Executive Director's review and approval, including site plan, elevations, landscaping, grading and drainage, and height study. The proposed building envelope shall include the approved residential dwelling, garage, patios, and decks or walkways. The revised final project plans shall also illustrate the exact dimensions of the structure, which shall not be more than 10% greater in size (square footage), height, and volume (bulk) to the existing structure currently located on the property. Placement of the structure shall be within the existing structural footprint including portions of the rear patio as shown on Exhibit D. All existing setbacks shall be maintained. The current non-conforming side yard setback for the garage along 13<sup>th</sup> Avenue may be maintained to preserve mature trees. There shall be no significant removal of trees or vegetation.

## V. Recommended Findings and Declarations

The Commission finds and declares as follows:

### A. Project Description and Background

The Applicant proposes to demolish an existing two-story, single family residence (approximately 2,635 square feet) and construct in its place, a two-story 2,700 square foot single family residence at the SE corner of Camino Real and 13th Avenue in the City of Carmel-by-the-Sea. Applicant also proposes 225 square feet of walkways and patio site coverage along with a lot line adjustment creating two building sites, including the 6,900 square foot site of the proposed new house and a 4,000 square foot lot without a City-approved structure. The proposed main structure would occupy the north two-thirds of the existing building site and has an east-west orientation that predominately faces 13th Avenue. See Exhibit E. Although the applicant has submitted an application to the City of Carmel for a structure on the 4,000



square foot parcel created by the lot-line adjustment, the applicant has stated that he has not yet decided on whether he will construct the home if it is approved. As discussed below, however, the applicant has submitted a title report that shows that the parcels were merged by map and by deed to create one parcel (one building site) in 1972. Thus, under the existing lot configuration, there is one parcel (10,900 square feet) and one building site.

Though the square footage and site coverage are roughly the same for the proposed and existing structures, the proposed new structure is much larger in bulk and volume. The proposed design retains and rehabilitates the existing garage within the same nonconforming garage setback (1'). The City granted the applicant a variance to maintain the sub-standard setback.

The site is bounded by public streets along both 13th Avenue and Camino Real and is heavily forested with coast live oak. The interior of the parcel site contains several significant trees that provide screening for the existing structure. The new east-west orientation requires the removal of two significant trees, including a 17" coast live oak, an 8" two-sparred coast live oak, and significant pruning of another --a 12" diameter spar from a 21" coast live oak. In addition, 7 limbs and canopy branches of various diameters will need to be removed during the course of construction. As mitigation for the tree removal and pruning, the City Forest and Beach Commission has required 6 upper canopy trees, such as Monterey pines, Monterey Cypress or coast redwoods be planted. The applicant has also stated that he will plant additional trees.

According to the City staff report, the structure slated for demolition was originally constructed in 1921. A garage in was added in 1922 and a second story addition to the south wing in 1936. Subsequent modifications were made in 1954, 1969, 1972, 1973, 1978, and 1988. Much of the more recent modification was in the form of interior changes to plumbing, electrical, and some cabinetry. In 1978 a bathroom was added and another bathroom remodeled. Other than that, the structure appears to have retained many of its original exterior architectural features. A historical evaluation performed by Jones & Stokes Associates determined that the structure is eligible for historical designation under the California Register of Historical Resources (CRHR) criteria for associations with notable persons and architectural styling. The findings in the staff report prepared by the City of Carmel however state that the structure is not eligible for historical designation under local or state criteria. The basis for these findings is the personal testimony of Gus Arriola, a noted cartoonist associated with the structure and the fact that the home has been modified.

In addition, a home inspection report found that the structural integrity of the house had been compromised and that a fair amount of reconstruction would be required to rehabilitate it. Subsequent letters submitted by the applicant from a structural engineer, architect, and the City have increasingly suggested that the structure is unsound, dilapidated, and should be removed. In August 2001, at the request of the applicant, the City Building Official inspected the house and issued a red-tag for the structure, requiring that it be rehabilitated or demolished. As of this time, the City has not declared the structure a public nuisance or otherwise invoked its police powers to order that the structure be removed. The applicant purchased the property and structure in August 2000 and has stated that he had been living in the home up until the time the red-tag was issued (August 2001). The City's red-tag order requires that permits to demolish or



rehabilitate be obtained within 60 days of date of issuance. Staff has contacted the City regarding this matter and has received word that no action will be taken by the City in this regard until after the Commission has acted on the applicant's coastal development permit.

## B. Standard of Review

The City of Carmel-by-the-Sea is located entirely within the coastal zone but does not yet have a certified LCP. The Commission approved a Land Use Plan (LUP) and an Implementation Plan (IP) at different times in the early 1980s, but the City did not accept the Commission's suggested modifications. Thus, both the LUP and the IP remain uncertified. Until the Commission has certified the entire LCP submittal, the Commission retains coastal permitting authority over development within the City, for which the standard of review is the Coastal Act of 1976.

The Commission has authorized a broad-ranging categorical exclusion within the City of Carmel (Categorical Exclusion E-77-13) that excludes from coastal permitting requirements most types of development not located along the beach and beach frontage of the City. The proposed development, however, is not excluded under Categorical Exclusion E-77-13 because it involves demolition, and requires a variance greater than 10% of the applicable standards under the City's Zoning Ordinance, and requests a lot-line adjustment resulting in the creation of new building site (increases the allowable density of development on the affected parcel). As mentioned above, the applicant has received a 4-foot setback variance for the garage, which is approximately 80% greater than the City's applicable standard.

The City is currently working on a new LCP submittal (both LUP and IP), funded in part by an LCP completion grant awarded by the Commission. This current City effort is focused on protecting the significant coastal resources found in Carmel, including the spectacular public beach and recreational amenities along the City's frontage, the urban forest that uniquely identifies Carmel as the City within the trees, the substantial riparian and habitat areas (such as Mission Trails Nature Preserve and Pescadero Canyon), and the unique community and visual character of Carmel as exhibited by the style, scale, and rich history of its residential, commercial, and civic architecture. Taken as a whole, these resources combine to form the special character of Carmel; a character that is separately a significant coastal resource worthy of protection in its own right. The City is making progress and anticipates that both the LUP and IP will be submitted for Commission review in December of this year.

Nonetheless, unless and until the Commission has certified any future City LCP submittals, the Commission retains coastal permitting authority over non-excluded development within the City. As a result, although the City's current ordinances and policies can provide context and guidance, the standard of review for this application is the Coastal Act.





## C. Issues Discussion

### 1. Community Character

The current project raises doubts about its consistency with Coastal Act Section 30253(5), which protects and preserves the character of special communities and neighborhoods. Coastal Act Section 30253(5) states:

*Section 30253(5). New development shall where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.*

Sections 30251 of the Coastal Act adds further protection to the scenic and view qualities of coastal areas:

*Section 30251. The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality on visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

#### Carmel's Community Character

Carmel, of course, is a very popular visitor destination, known as much for the style, scale, and rich history of its residential, commercial, and civic architecture, as for its renowned shopping area, forest canopy and white sand beach. The City is considered a "special community" under the Coastal Act due to its unique architectural and visual character. It is often stated that Carmel, along with such other special coastal communities as the town of Mendocino, is one of the special communities for which Coastal Act Section 30253(5) was written. Indeed, Carmel has been, and remains today, a spectacular coastal resource known the world over as an outstanding visitor destination.

In particular, as a primarily residential community, the web of residential development in Carmel plays a key role in defining the special character of the City, as various architectural styles present reflect the historical influences that have existed over time. Carmel is distinctly recognized for its many small, well-crafted cottages. These modest, sometimes quaint residences are associated with the era in which Carmel was known for its resident artists and writers, and functioned as a retreat for university professors and other notables. These homes were nestled into the native Monterey pine/Coast live oak forest, on a grid of streets that was executed in a way that yielded to trees more than to engineering expediency. This was the context for Carmel's community life and its built character.



The demolition and replacement of existing residential buildings in Carmel have great potential to alter this special community character protected by the Coastal Act. In particular, these projects raise questions as to (1) whether or not an existing house represents the historical, architectural, scale, and environmental character of Carmel; and (2) if a replacement structure detracts from Carmel's character because of a modern design, tree removal, proposed house size, or other characteristics.

The impacts of a residential demolition and rebuild on community character can depend on a variety of factors. For example, there are a number of cases where a house or houses were demolished and a single, much larger house constructed on the site. In other instances, a single house straddling a lot line has been demolished and two new, smaller houses were constructed. In either of these types of instances, the character of Carmel may or may not be preserved, depending on the context, but it is certainly changed, either through the increase in residential density or a change in mass and scale. The size of a house is one aspect of Carmel's character, but not all existing houses in Carmel are small. However, because the lots are almost all relatively small, about 4000 square feet, the general pattern of development is one of smaller houses.

The architectural style of houses in Carmel is another aspect of the City's character. Many of the houses were built in the first quarter of the century in the Craftsman style; others resemble houses that might be found in an English village. Modern style houses, while they do exist, are not prevalent in Carmel. A residential demolition and rebuild project can both remove a structure that expresses the community character, and result in a new structure that may not reflect the surrounding neighborhood character.

A third aspect of Carmel's character is the pine and oak dominated landscape. Although the forest landscape is not all natural – there has been enhancement over the years by tree planting – it pervades the City and is a defining characteristic of Carmel. Demolition often can result in tree damage and/or removal. New construction after demolition also may result in the loss of trees, especially if a new structure is built out to the maximum allowed by the zoning. And, the potential for the growth of the next generation of trees is reduced in proportion to the increase in hardscape because there is less room for seedlings to get started.

The historic resource value of a structure is another important factor to consider when evaluating impacts to community character. In general, structures greater than 50 years old may be considered historic, depending on the results of a specific historic resource assessment. In some cases, depending on the persons associated with a structure, or the significance of a structure to Carmel's local history, a building may be deemed to be a historic resource by the City, the State Office of Historic Preservation, or other public agency. The Carmel Preservation Society also may have identified a structure as an historic structure, or a structure may be eligible for listing in the California Register of Historical Resources (CRHR), particularly if it is found to be a contributing element of the potential District One historical district in Carmel. (One consideration in the City's development of its LCP is the creation of historic districts. The City is assessing the viability of establishing a historic district where a critical mass of historical structures are known to exist. Structures located within one of these districts would be preserved and recognized for their contribution to the historical character of Carmel.) Finally, individual structures may be historically significant because they convey the design principles of a distinctive artistic



or architectural style, such as the Arts and Crafts movement, which is typical in Carmel. The landscaping of a site may also be part of such a style.

### Cumulative Community Character Impacts

Recent trends in demolitions also raise concerns about the cumulative impacts of individual projects on Carmel's community character. It is important, therefore, that the effect of this particular demolition/rebuild be evaluated within the context of the larger pattern of demolition and rebuild over the years in Carmel.

Over time, the character of Carmel has been changing as its older housing and commercial stock makes way for new, usually larger in size and scale, developments. According to the Commission's permit tracking database, approximately 650 projects involving development have received coastal development permit authorization in Carmel since 1973. The overwhelming majority of these involved residential development of one sort or another ranging from complete demolition and rebuild to small additions to existing structures. It is likely that this number undercounts this trend inasmuch as the Commission's database was created in 1993 and, while every effort was made to capture archival actions, the database may not reflect every single such action taken. In addition, due in part to the City's categorical exclusion, it is not clear how many projects involving substantial remodel (but not complete demolition) have taken place over the years.

In contrast, the Commission's database for the period since 1990 is fairly robust. Since 1990, there have been roughly 185 coastal permit applications in Carmel. Of these, approximately 150 projects (or over 80%) involve some form of demolition, rebuilding and/or substantial alteration of residential housing stock in Carmel. This comes out to roughly 14 such residentially related projects per year since 1990; nearly all of these have been approved. Other than the three year period from 1992 – 1994 when a total of 13 applications were received, the number of development proposals in Carmel had been fairly constant until 2000. However, in the year 2000 alone, the Commission had received 44 applications; a full quarter of all applications received by the Commission for development in Carmel in the last decade. Of these 44 applications received in the year 2000, 33 of these involved some form of demolition, rebuilding and/or substantial alteration of residential structures. Thus far, in 2001, more than 20 applications have been received; 16 of these involved residential demolitions/alterations. As of this writing, another dozen or so demolitions are in various stages of City Planning review. Clearly the trend for demolition/rebuild/substantial remodel has been magnified in current years as demand for Carmel properties has outstripped the limited supply represented by the approximately 3,200 parcels within the boundaries of this small town. As this trend has continued, it has become increasingly difficult to conclude that the demolition of residential structures is not significantly changing the unique character of Carmel.

### Prejudice to LCP Planning Efforts

In addition to the direct concerns with whether a particular demolition is consistent with Coastal Act Section 30253(5), there is real concern that the individual and cumulative impact of changes in community character, primarily through the approval of residential demolitions, in the City of Carmel-by-the-Sea may prejudice the City's efforts to prepare and complete a certified LCP that is consistent with the Coastal Act.



The Coastal Act provides in Section 30604(a):

*Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with Chapter 3 (commencing with Section 30200) and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200). A denial of a coastal development permit on grounds it would prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for that conclusion.*

It is not entirely clear whether and to what extent the history of demolition/rebuild/remodel has altered the special community character aesthetic of Carmel that is protected by the Coastal Act. The Commission has not undertaken a formal cumulative impact assessment of such a trend to date. There is little doubt that structures within the City have generally been getting larger, and that many structures of at least some individual historical and other value have been demolished. The difficulty is that the Commission cannot necessarily ensure that continuation of residential demolitions and rebuilds will protect Carmel's community character. In other words, such projects may be prejudicing the City's completion of an LCP that is consistent with the Coastal Act.

Part of the reason for this is that although the elements that define the City's community character can be generally described (as discussed above; e.g., "the City in the forest", architectural style, historic value, scale, etc.), there has yet to be completed a comprehensive assessment and articulation of how all of these factors interact to define Carmel's character. Although individual projects may raise many concerns, depending on the facts of the structure, the nature of the proposal, the context of the development, etc., there are no planning standards and ordinances that provide a clear framework for whether a project meets the requirements of the Coastal Act – i.e., to protect the special community character of Carmel.

To implement the community character protection requirements of the Coastal Act, the Commission has always emphasized the importance of having local communities define their community character through a local planning process, so that a Local Coastal Program, when certified, will meet both the community's vision and understanding of its character, and the requirements of the Coastal Act. Although the Coastal Act provides a more general statewide policy framework for protecting community character, the details, for example, of whether particular types of structures should be deemed to be historic, or whether certain architectural styles reflect the character of a community, need to be developed through a local planning process such as that provided by the LCP process of the Coastal Act.

As mentioned earlier, the City of Carmel is currently finishing up a community planning process to determine, among other things, the basis for defining Carmel's community character, and ways to protect and preserve that character consistent with the Coastal Act. It is anticipated that the City will be submitting both a Land Use Plan and an Implementation Plan to the Commission for review in December of 2001. In the meantime, though, Coastal Act Section 30253 requires that individual projects not have direct or cumulative adverse impacts on Carmel's character; and Section 30604 requires that individual



projects not raise significant concerns about consistency with Section 30253, lest they prejudice the completion of an LCP consistent with the Coastal Act. As discussed above, the cumulative residential demolition trend in Carmel has made it increasingly difficult to conclude that these projects are not significantly changing the special community character of Carmel. Although each project must be judged on its individual circumstances, the cumulative context necessarily shapes these judgements, precisely because the community character of a place is in part the sum total of its parts.

Because the more specific features that define Carmel's character, as well as their relative significance, is yet to be decided, it is important to focus on measures of significant change to community character so that the completion of an LCP consistent with the Coastal Act is not prejudiced. Thus, the Commission can be assured that projects that do *not* result in significant changes in the various features of Carmel's community character, will not prejudice the completion of an LCP consistent with section 30253. Examples of such measures of change in community character include the following types of questions:

Would the proposed project:

- Result in a 10% or greater increase in the gross square footage, height, or footprint (site coverage) from that which is currently present (the 10% measure reflects the standards of the Coastal Act for evaluating replacements of structures destroyed by a disaster (section 30610))?
- Result in the removal of any significant (i.e., 6" or greater in diameter) native pine, willow, cypress, or oak trees? Or, even if no trees are removed, involve sufficient limb removal to be a significant loss of forest canopy?
- Involve a structure greater than 50 years old for which the City has not performed a historic resource assessment (i.e., the potential historic value of the structure is uncertain)?
- Modify a structure deemed to be a historic resource by the City, the State Office of Historic Preservation, the Carmel Preservation Society, or other public agency or knowledgeable entity (since the value of the historic resource within the context of the community has not yet been defined, the demolition of such structures may prejudice the LCP)?
- Not identify a City-approved replacement structure (i.e., the project is a "speculative" demolition and thus by definition has an uncertain impact on community character)?
- Facilitate an increase in residential density (a common type of application is to demolish one house that straddles two parcels, to allow a replacement house on each parcel)?
- Facilitate replacement of traditional architecture style in favor of contemporary or modernistic styles (from the visitor's perspective, rustic cottage and Craftsman styles are those most likely representative of Carmel's architectural traditions)?

### Specific Project Impacts and Coastal Act Consistency Analysis

As discussed below, the proposed demolition and rebuild raises significant concerns about consistency



with Coastal Act section 30253(5). Because it will result in a number significant changes to aspects of Carmel's community character, it must be modified to be found consistent with Section 30253(5) of the Coastal Act.

### Demolition of the Existing House

The existing house located on-site is 80 years old and has been modified several times, yet it retains much of its original integrity. The structure slated for demolition was originally constructed in 1921 and subsequently modified in 1922, 1936, 1954, 1969, 1972, 1973, 1978, and 1988. In 1922, the garage was added; a second story, approximately 635 square feet, was added to the structure in 1936. Much of the additional modification was in the form of interior changes to plumbing, electrical, and some cabinetry. In 1978 a bathroom was added and another bathroom remodeled. Other than that, the structure appears to have retained much of its original exterior architectural features. See Exhibit F.

The c. 1921 structure is not currently listed on any state or local roster of historical or architecturally important structures in the City. The original historic context statement prepared in 1990 noted the structure's contribution to the stock of Craftsman homes built in the City's early architectural development. It contended that the house was built for Joseph Hooper, one of the original and most senior players on the Abalone League baseball team. The statement also mentions that the house was sold to famed-cartoonist Gus Arriola in the late 1960's. Mr. Arriola lived and worked there with his family for twelve years. See Exhibit G.

A more recent historical evaluation performed by Jones & Stokes Associates (June 1999) determined that the structure is eligible for listing in the California Register of Historical Resources (CRHR), as a contributing element of a potential historic district (See Exhibit H). One consideration in the City's development of its LCP is the creation of historic districts. The City is assessing the viability of establishing a historic district where a critical mass of historical structures are known to exist. Structures located within one of these districts would be preserved and recognized for their contribution to the historical character of Carmel. The structure under evaluation in this project is on the southern border of the potential District One, historic district. Although the Carmel Preservation Foundation (CPF) volunteer survey described the southern extent of the potential District One boundary as 13<sup>th</sup> Avenue, such boundaries typically run through the middle of blocks so that streetscapes are preserved. Therefore, the properties on the first lots south of 13<sup>th</sup> Avenue might be considered for inclusion in the potential District One historic district.

The Jones & Stokes evaluation states that the house is individually significant at the local, state, and national level for its association with the life and work of cartoonist Gus Arriola. The report observes that the house and studio are directly associated with a critical period in Mr. Arriola's career. Notably, the report claims that "the house has been little changed since the Arriola's lived there and retains its integrity under his association."

The evaluation also determined that the house is eligible for listing in the CRHR for its individual contributions to the Arts and Crafts movement. "It conveys the design principles of the Arts and Crafts



movement, the landscaping principles of this movement, and reflects the design traditions typical of early residential development in Carmel.” Architectural elements of the house proposed for demolition, typical of the Arts and Crafts movement include: the creation of a semi-enclosed back patio compliments of the U-shaped architectural design and the use of natural materials (wood shingles, stone paving materials, wood framing, tri-partite slider and casement window, rubble-stone chimney’s, etc). The landscaping on-site is also typical of the Arts and Crafts movement with natural plantings of a variety of species, sizes, and locations, informal landscapes of the front and side yard, and large canopy trees at the front of the yard integrate the house into a natural setting. The house also exhibits the qualities typical of the design traditions of early residential block development in Carmel, including the U-shaped design with the long side of the U oriented toward the ocean, siting of the house at the south edge of the lot with large front-yard setback, and the detached garage along the edge of the street.

The City, in its review of the subject application, came to a different conclusion regarding the historical significance of the structure. In the course of investigating the historicity of the structure, the City determined that the house was not eligible for designation as significant because it did not (1) convey the cultural heritage of Carmel, (2) was not the site of an important event, (3) did not convey the significance of an important person, and (4) was not architecturally significant within the context of the Historic Context Statement for Carmel-by-the-Sea. The City’s report reasoned that the structure did not convey any cultural heritage because Gus Arriola did not live in the house while he was actively participating in forging Carmel’s cultural heritage (based on Mr. Arriola’s own account). Furthermore, there was no indication that significant events took place at the house or that the house was directly associated with any person(s) who significantly contributed to the development of the community. The City also found that the Craftsman style of architecture was not indicative of an architecturally exemplary or significant residence of Carmel. See Exhibit I.

Notwithstanding these prior decisions, the Commission is obligated to review the project’s impacts to community character pursuant to its coastal development permitting authority. In addition, as summarized above, historic character is but one factor in evaluating the contribution of an individual structure to community character, particularly in a community such as Carmel. In this case, first and foremost, there is considerable uncertainty as to the historic character of the house when considered in the context of Carmel not having a certified LCP. The historic survey and evaluation prepared in 1999 determined the structure to possess historical associations with notable persons and architecture. Nonetheless, based on the accounts of Mr. Arriola himself, the City overrode the findings of the historic evaluation and they had the discretion to do so.

Similarly, the existing structure may also contribute to Carmel’s character by virtue of its architectural design. The house does exhibit examples of the classic Craftsman architecture of its period. As mentioned above, the Jones & Stokes Associates historical evaluation contends that that house is a important example of the Craftsman style because it reflects the design traditions typical of early residential development in Carmel.

*Architectural elements of the house that convey the Arts and Crafts philosophy include the U-shaped plan and resulting creation of a front patio and semi-enclosed back patio; the honest*



*use of materials such as wood shingles, stone paving materials, and course rubble stone in the three chimneys, and; the wood frame, tri-partite, slider and casement windows. (Jones & Stokes evaluation, page 2).*

As mentioned earlier, the City found that the Craftsman style of architecture was not indicative of an architecturally exemplary or significant residence of Carmel. Furthermore, in its staff report, the City makes a finding that the house is dilapidated and in a severe state of disrepair, including a potential threat to health and safety. The City made its assessment based on a City inspection of the home and the home inspection report performed by Markey Construction Inc., which contended that the foundation and structure of the house had been compromised and are in need of repair. It estimated that a fair amount of reconstruction would be necessary to rehabilitate the structure, but did not determine that the structure is uninhabitable or that it should be condemned. See Exhibit J.

Similarly, staff received a letter that concludes the house is unsafe for habitation based on an inspection report of the structure performed by Uyeda & Associates Engineering on May 23, 2001. The letter states that there are no shear elements in the walls or perimeter foundation, no concrete footings under the pier blocks, the anchor bolts are too small, that the chimney is not reinforced, and the mortar is deteriorated. Finally, the letter states that rehabilitating the structure would be more costly than the proposed demolition and construction of the new home. No actual cost estimate was contained in the letter. The letter from Mr. Uyeda does acknowledge that the house withstood the 7.1 magnitude Loma Prieta earthquake with minimal damage. See Exhibit K.

Staff has received subsequent letters and recommendations from Uyeda Associates, the City of Carmel Building Inspector, and a licensed architect. Though there is still some debate as to whether or not the structure could be rehabilitated (based on cost and engineering feasibility), each of the correspondents ultimately recommend that the structure be demolished. Uyeda Associates strongly recommends that the structure be demolished because retrofitting the existing structure would be far more costly than building the new house and would necessitate a major redesign. The City of Carmel's Building Official inspected the structure at the request of the applicant and opined that the structure and detached garage have outlived their useful lives and are in a state of disrepair and dilapidation. The City concludes that the structural deficiencies are so severe as to declare the buildings substandard, dangerous, and uninhabitable. A red-tag order was placed on the structure August 8, 2001 requiring that all necessary permits to repair or demolish be obtained within 60 days of said order. Although the City's recommendation strongly suggests that the structure be demolished, the City has not concluded that the structure is a public nuisance and has not ordered the nuisance to be abated. Staff has contacted the City regarding this matter and has received word that no action will be taken on the red-tag order until after the Commission has acted on the applicant's coastal development permit. See Exhibit L.

Another letter from Uyeda Associates and one from Paul Tickner Architects concurred with the City's assessment based on the current condition of the house, however both took exception to the City's assertion that the structure be rehabilitated as one alternative to outright demolition. As a matter of practicality, both firms indicate it would cost as much or more to rehabilitate as compared to constructing the new structure and from an engineering standpoint, the structure would not be able to withstand the





movement necessary to shore the foundation and add bracing to walls. Actual cost estimates for the rehabilitation versus the new construction were not provided. Furthermore, in order to address all the deficiencies necessary to rehabilitate the existing structure would essentially amount to a demolition. Thus, rehabilitation is not a viable alternative. One cost estimate to repair / rehabilitate the existing structure was obtained from a general contractor which suggest the cost may equal or exceed \$200 per square foot. The contractor noted that he had experience building houses in the greater Monterey peninsula area, including Carmel, but did not state whether he had any experience in rehabilitating aged structures. See Exhibit M.

As with the arguments for historical association with important persons, uncertainty exists with respect to the importance of the structure for its contribution to architectural style. Part of the debate is to what degree any individual structure is architecturally significant within the larger context of architectural resources of the City. In order to adequately evaluate this, the Commission must weigh, among other things, the amount of reconstruction and retrofitting (effort) that will be necessary to make the structure sound. In this case, rehabilitation or retrofitting will amount to nearly complete reconstruction of the structure; in which case it appears that a total demolition is essentially required to facilitate the process. Furthermore, the second-story addition on top of single wall construction simply may not lend itself to being rehabilitated. Thus, while the Craftsman architectural style is clearly important to Carmel's residential character, as evidenced by the debate summarized above, it is not clear that the existing structure in its present condition is capable of rehabilitation.

Certainly, demolition of the existing structure and replacement with a new structure of different design will result in a change in architectural styles and the issue of character has yet to be resolved and embodied within an LCP. However, given the circumstances, it would be imprudent to require a structure not be demolished when it is clear that it may not be capable of rehabilitation. Thus, even though the Commission is unable to conclude that demolition of this structure will not result in a loss of character by virtue of its architectural design and potential historical value, there are overriding factors that allow for demolition of the structure. In this particular instance, the overriding factors for consideration are the structures current state of disrepair, questionable historical architecture, and the cost and feasibility associated with rehabilitation. Therefore, even though demolition of this structure may result in irreversible adverse impacts to community character resources, based on the existing structure's current state of disrepair and associated rehabilitation cost, demolition of the structure is on balance consistent with Coastal Act Section 30253. Furthermore, demolition of the structure will not prejudice the City's ability to prepare and adopt a certified Local Coastal Program consistent with the Coastal Act. Therefore the demolition is consistent with Coastal Act section 30604(a).

### Lot-Line Adjustment

Lot-line adjustments resulting in the creation of new building sites or increasing the allowable density of development on the affected parcels are not excluded under the City's categorical exclusion order E-77-13. As such, the Commission retains original permitting jurisdiction over this development activity.

The area of the site as it currently exists is 10,900 square feet. The proposed lot line adjustment would create two buildable lots of 6,900 square feet and 4,000 square feet. The proposed new structure would



be located on the north parcel (6,900 square feet) leaving the south parcel undeveloped at this time. However, according to the title report provided by the applicant, several pre-existing lots and parts of others were merged by map and by deed to create one parcel, (and one building site) on November 8, 1972 (See Exhibit N). Thus, there is only one legal lot of record, and therefore no lot-lines to adjust. The applicant has requested that the lot-line adjustment be withdrawn from the application. If the applicant wishes to pursue a land division in the future, he will need to pursue this with the City and apply for a Coastal Development Permit with the Commission.

### Proposed New Structure

The parcel is currently developed with a single family dwelling. The site is bounded by public streets along both 13<sup>th</sup> Avenue and Camino Real that is heavily forested with coast live oak. The interior of the parcel site contains several significant trees that provide screening for the existing structure. The existing house has a 32' front-yard setback and with the exception of the garage, is setback more than 15' from 13<sup>th</sup> Avenue as well. Although larger than many of the customary Carmel cottages, the existing structure, site orientation, and forest characteristics are typical of the Carmel experience.

The proposed two-story house is 24 feet in height, approximately 18 inches shorter than the second-story addition on the south wing of the existing structure. The architectural style of the proposed single family residence is similar to an English Cotswald cottage. The roof design is complex with many roof planes and very steeply pitched gables that reach their apex without flattening. As a result, even though the square footage of the existing and proposed homes is similar, the volume of the proposed house is much larger. See Exhibit O. The proposal retains and rehabilitates the existing garage and same nonconforming garage setback of 1 foot. A variance was obtained from the City to maintain the nonconformity to preserve existing trees at the rear of the residence.

Natural materials are used throughout. For example, the chimney and building fascia are made of Carmel stone veneer. The roof is Cedar wood shingle. Windows, doors, timbers, and trim are Redwood. The front walkway and small porches are likewise Carmel stone. The combination of eclectic design and natural materials is compatible with the materials and designs used elsewhere in the homes around Carmel. (Exhibit P).

The applicant proposes to reorient the new structure in an east-west configuration. As a result of the new orientation, the front yard setback is reduced from 32' (existing) to 16' (proposed). This design also requires the removal of two significant trees, including a 17" coast live oak, an 8" two-sparred coast live oak, and significant pruning of another --a 12" diameter spar from a 21" coast live oak. In addition, 7 limbs and canopy branches of various diameters will need to be removed during the course of construction. As mitigation for the tree removal and pruning, the City Forest and Beach Commission has required 6 upper canopy trees, such as Monterey pines, Monterey Cypress or coast redwoods to be planted. The applicant has stated that one of the oaks to be removed is diseased, though there is no discussion of this in the City's Forest and Beach Commission staff report. The applicant has also stated that he will plant additional trees. See Exhibit Q.



The subject parcel is located within the city limits of the City of Carmel. The existing building site, though currently developed, is more than twice the size as the average 4,000 square foot lot. Parcels in the vicinity of the subject parcel are developed with single family dwellings at densities less than the average. There are oversized parcels (i.e., > 4,000 sq. ft.) on the remaining three corners (NE, NW, and SW) of Camino Real and 13<sup>th</sup> Avenue. Additionally there are another nine oversized parcels within less than a half-block radius of the applicant's parcel. (Exhibit R)

All utilities are connected to the existing house on this site. There are adequate public services for the proposed new house. Parking is adequate. Additionally, the proposed new house meets City requirements for maximum height, floor area, and site coverage. A side-yard variance was granted for the retention and rehabilitation of the garage. Neither the demolition nor the new construction would adversely or significantly affect any significant public view. The area is developed with urban services in an area able to accommodate the replacement of the existing house with a new one.

As described previously, to implement community character protection requirements of the Coastal Act, the Commission evaluates projects and measures a project's impact on coastal resources across a number of variables. These changes are also evaluated in the overall context of changes in community character. Because the more specific features that define Carmel's character, as well as their significance, has yet to be decided, it is important to focus on measures of significant change to community character so that the completion of an LCP consistent with the Coastal Act is not prejudiced. One such criterion is whether the development will result in more than a 10% increase in the gross square footage, height, or volume. Other measures of change in community character, though, include changes in architectural style, demolition of notable or historic buildings, the removal of significant vegetation or trees, changes in the footprint, any development that facilitates an increase in residential density, etc. Each of these factors must be evaluated separately and together as a whole.

As discussed above, the proposed rebuild is only slightly larger in square footage, though by design, it is much larger in volume. The new structure will be reoriented in an east-west configuration parallel with 13<sup>th</sup> Avenue. The architectural styling is different than that currently existing on site, however it is consistent with other modern eclectic homes in Carmel. The proposed project may involve demolition of a historical structure, yet its current structural soundness has been called into question and it is likely that demolition would also be required to rehabilitate the existing structure. Trees will be removed, though the applicant is required to replant several (6) upper canopy trees in their place. Finally, because there is no lot-line adjustment, the project will not affect residential density.

Thus, given the site considerations and the parameters of the proposed project, the real question is whether the new structure preserves the current ambient quality and character of the site and the overall character along Camino Real and 13<sup>th</sup> Avenue. As proposed, the answer is no. The replacement structure is much larger in volume and the change in orientation and relocation of the house combined with the removal of significant vegetation increases the potential for this design to alter the streetscape significantly. However, if the proposed project is modified to reduce the volume of the structure and reorient the placement of the new structure in roughly the same footprint as the existing structure, without the need to remove any trees, then the Commission can find that in the larger context of community



character, the proposed demolition and rebuild would not significantly change the community character of the area. Lacking specific guidance from an approved Local Coastal Program, the Coastal Act provides guidance concerning what would constitute a significant increase in the size, scale, and bulk of a structure. One example, Coastal Act Section 30610 (g)(1)), allows for disaster replacement of any structure up to 110% of the existing size (floor area), height, and bulk<sup>1</sup> (volume), but also qualifies that the replacement structure must be sited in the same location on the affected property. The California Code of Regulations §13250 requires a Coastal Development Permit for all improvements to single family residences greater than 10% larger in floor size and height. Thus, by extension, in order for the Commission to conclude that development will not result in significant impacts, the proposed development must be within 10% of the size, height, and bulk of any existing development and should be sited in the same location. In this case, the proposed development exceeds the limitation in bulk and deviates from the existing placement of the house. In order to be consistent with the Chapter 3 policies of the Coastal Act, the applicant will need to scale down the proposed project to be within 10% of size (square footage), height, and volume, and re-site the replacement structure on the existing footprint. Special Condition #1 identifies the limits for a new structure that would be consistent with the above finding and Chapter 3 of the Coastal Act.

Thus, as proposed, the new structure is not consistent with 30253(5) of the Coastal Act. However, if modified to not to be greater than 10% larger in size, volume, height, and remain within the existing footprint as the affected structure, the proposed new house will conform to the Chapter 3 policies of the Coastal Act. Special Condition 1 requires the applicant to submit revised plans approved by the City, which meet the above criteria.

Likewise, for the reasons discussed above, the project, if modified, preserves the current ambient quality and character of the site and the overall character along Camino Real. Thus, in the larger context of community character, the proposed demolition and rebuild will not significantly change the community character of the area.

Additionally, the project will not otherwise impact public access or view opportunities available to the coast. Therefore, the Commission finds that the project, as modified, is consistent with Coastal Act Policy 30604(a) in that approval of the project has been found consistent with the Chapter 3 policies of the Coastal Act and will not prejudice development of the LCP in conformance with Chapter 3 policies of the Coastal Act.

## D. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures

---

<sup>1</sup> Bulk is the total interior cubic volume as measured from the exterior surface of the structure. The existing structure has been estimated at 31,660 cubic feet.



available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. This staff report has discussed the relevant coastal resource issues with the proposal and is incorporated into this finding, and has recommended appropriate mitigation to address adverse impacts to said resources. Accordingly, the project is being approved subject to conditions which implement the mitigating actions required of the Applicant by the Commission (see Special Conditions). Any public comments regarding this project have been addressed in these findings. As such, the Commission finds that only as modified and conditioned by this permit will the proposed project not have any significant adverse effects on the environment within the meaning of CEQA.

